IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

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WRIT PETITION NO : 6681 of 1995

Between:

N. Laxmi Narayana Reddy, s/o. Sri N.Narayana Reddy,

Aged about 36 years, Occ. Jr. Accountant-cum-Typist,

Indira Gandhi National Open University, R/o. Hyderabad.

..... PETITIONER

AND

1. The Indira Gandhi National Open University, rep. by its Registrar,

New Delhi – 110 068

2. The Regional Director, Indira Gandhi National Open University, Cess Bldg., Begumpet Observatory, Hyderabad – 500 016

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ declaring the Seniority List issued by the respondents in the cadre of Junior Asst.-cum-Typist vide Proceedings No. F.No. 1-12(30)NA/Estt/5067 dated 30-11-1994 and confirmed seniority list issued vide proceedings F.No.1-12-(30)/NA/Estt/6970 dt. 10-03-1995 as arbitrary, illegal, violative of principles of Natural justice and also violative of the Fundamental Rights guaranteed to the petitioner under Articles 14, 16 and 21 of the Constitution of India and issue consequential directions :

i) to fix his seniority, taking into consideration his initial date of appointment as adhoc Junior Assistant-cum-Typist i.e., 28.4.1989;

ii) to fix his pay, duly granting him notional increments for the period from 28-4-1989 to 22-3-1990; and

iii) to regularise the period from 29-12-1989 to 22-3-1990 and treat the same as on duty and pay him the arrears of salary for the said period, as the petitioner was kept out of duty illegally;

(Prayer amended as per the Court order dt. 4-10-2001 in WPMP No. 5839/01)

Counsel for the Petitioner: MR.C.V.MOHAN REDDY

Counsel for the Respondents: MRS.A.CHAYA DEVI (ADD.CGSC)

The Court made the following :

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ORDER:

The writ petition was filed questioning the proceedings dated 30.11.1994 being the seniority list and consequential directions were sought;

i) to fix his seniority, taking into consideration his initial date of appointment as ad-hoc Junior Assistant-cum-Typist i.e., 28.4.1989;

ii) to fix his pay, duly granting him notional increments for the period from 28-4-1989 to 22-3-1990; and

iii) to regularise the period from 29-12-1989 to 22-3-1990 and treat the same as on duty and pay him the arrears of salary for the said period, as the petitioner was kept out of duty illegally;

2. Subsequently, pursuant to the interim orders passed by this Court dated 6-4-1995 in WPMP No. 8277 of 1995, respondents were directed to consider the representation of the petitioner dated 19-1-1995, while effecting promotions to the next higher post of Assistants. Pursuant there to, the seniority list was finalized and petitioner was placed at sl.No.83 vide proceedings dated 10th March 1995. The confirmed seniority list was questioned by amendment application. The rest of the consequential reliefs remained the same.

3. It is not in dispute that petitioner was initially appointed on 27.4.1989 and his services were terminated on 29-12-1989 whereupon he filed W.P.No. 288 of 1990 challenging the order of termination and that writ petition was disposed of by a common order dated 2-3-1990. On a submission made by the counsel for the respondent University that the case of the regularization of service of the petitioner shall be considered, the writ petition was not disposed of on merits. Subsequent thereto, in purported compliance of the said order, petitioner was informed that University has decided to regularise his services as Junior Assistant-cum-Typist with immediate effect and on condition that he qualifies in the typing test. This order dated 21-3-1990 was further clarified by the letter dated 3rd July 1990, whereby the petitioner was informed that his appointment shall be on temporary basis though the

post is permanent he will be on probation for a period of one year from the date of appointment and that the confirmation of the appointment is subject to qualifying typing test. It is not in dispute that the appointment was thus from 23.3.1990 being the date of the appointment letter issued to the petitioner.

4. The consequential relief prayed for, in the circumstances, cannot be granted as in the earlier periods petitioner was on ad-hoc appointment and his services were only regularised on 22-3-1990 when the appointment letter dated 21-3-1990 was issued.

5. In so far as the seniority list is concerned, it is seen that there is no averment made in the writ petition questioning the placement of the persons above him as arbitrary or illegal. It has not been shown that any of the persons in the list at Sl.No.1 to 82 are appointed subsequent to the petitioner. This is on the basis that, as contended, the seniority has to be determined on the basis of initial appointment. Petitioner's initial appointment being 22.3.1990, it has not been established that any of the persons in the list at Sl. Nos. 1 to 82 have been appointed subsequent thereto.

6. On the other hand, from the counter affidavit filed on behalf of the respondents, it is seen that all the persons shown as seniors to the petitioner have been appointed through selection process before 22.3.1990 i.e., before passing of the order by this Court on 2nd March 1990 in WP No.288 of 1990.

7. In these circumstances, no ground has been made out for interfering with the seniority list or for granting any of the reliefs as claimed by the petitioner. Writ Petition is liable to be and is accordingly dismissed. No order as to costs.

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03rd March 2005

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1. Two CD copies.

HON'BLE SRI JUSTICE M.H.S. ANSARI

WRIT PETITION NO : 6681 of 1995

3rd February 2005